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8 Attorneys for Defendant KLA-Tencor Corporation

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

13 CHRIS CRIMI, on Behalf of Himself and
All Others Similarly Situated,

14 Plaintiff,

15 vs.

16 EDWARD W. BARNHOLT, H.
17 RAYMOND BINGHAM, ROBERT T.
BOND, RICHARD J. ELKUS, JR.,
18 STEPHEN P. KAUFMAN, KENNETH
LEVY, MICHAEL E. MARKS, DEAN O.
19 MORTON, KENNETH L. SCHROEDER,
JON D. TOMPKINS, RICHARD P.
20 WALLACE, KLA-TENCOR
CORPORATION, and DOES 1 through 25,

21 Defendants.
22

Case No. CV-08-2249 CRB

CLASS ACTION

**DECLARATION OF THOMAS R. GREEN
IN SUPPORT OF STIPULATION AND
[PROPOSED] ORDER RE:
WITHDRAWAL OF PENDING MOTIONS
AND FILING OF SECOND AMENDED
COMPLAINT**

Date: July 25, 2008
Time: 10:00 A.M.
Dept: Courtroom 8

HON. CHARLES R. BREYER

1 I, Thomas R. Green, declare under penalty of perjury as follows:

2 1. I am an attorney with Morgan, Lewis & Bockius, LLP. I am licensed to practice in
3 the state of California and I am an attorney for defendant KLA-Tencor Corporation ("KLA"), on
4 whose behalf I make this declaration. If called as a witness I would competently testify to the
5 following facts, all of which are within my own personal knowledge, or based on information and
6 belief, as to those matters I believe to be true.

7 2. On or about May 7th, 2008, KLA filed a motion to dismiss pursuant to Federal
8 Rule of Civil Procedure 12(b)(6). Neither I nor any other attorney for KLA realized that the 21
9 page Memorandum of Points and Authorities exceeded the page limitation set forth in this
10 Court's Standing Order.

11 3. On May 29, 2008, counsel for Plaintiff filed a Motion to Remand.

12 4. On June 12, 2008, counsel for Plaintiff filed an Opposition to KLA's Motion to
13 Dismiss, a Motion to Strike the portions of KLA's brief that exceeded the 15-page limit set forth
14 in this Court's Standing Order, and a Motion for Leave to Amend, attaching a [Proposed] Second
15 Amended Complaint.

16 5. The hearing dates on these motions have been continued twice. On May 22, the
17 parties stipulated to continue the hearing date on KLA's motion to dismiss to July 18, 2008 to
18 accommodate Plaintiff's contemplated motion to remand so that it could be heard on the same
19 day as KLA's motion to dismiss. On June 30, 2008, the parties stipulated to continue the hearing
20 dates on the motions by a single week, to July 25, 2008, to accommodate a scheduling conflict for
21 counsel for KLA. This Court entered orders consistent with the parties' two stipulated
22 continuances.

23 6. With the Court faced with a motion to dismiss that erroneously exceeds this
24 Court's page limitation without proper leave, a motion to strike the excessive pages, and a motion
25 for leave to amend, the parties agreed that it would be a better use of the Court's and the parties'
26 limited time and resources to withdraw their pending motions and permit Plaintiff to file his
27 Second Amended Complaint. Given that the case is still in the pleading stage, the withdrawal and
28 likely re-filing of similar motions should not have any impact on the overall schedule of the case.

1 In fact, the parties' stipulation contemplates Plaintiff filing his Second Amended Complaint much
2 earlier than he would have had the parties proceeded with the hearings on July 25, 2008 and the
3 Court granted KLA's motion to dismiss and granted Plaintiff's request for leave to amend.

4 7. The Stipulation and [Proposed] Order filed herewith sets forth the terms of the
5 parties' stipulation. In short, Plaintiff and KLA have agreed to the following terms. The parties
6 will withdraw all motions that are currently pending and set to be heard on July 25, 2008.
7 Plaintiff will file the Second Amended Complaint by July 11, 2008, with KLA reserving all
8 objections and arguments with respect to the Second Amended Complaint. KLA will file its Rule
9 12 motion(s) in response to Plaintiff's Second Amended Complaint on August 8, 2008 and notice
10 any Rule 12 motion(s) to be heard on September 12, 2008. Plaintiff will file any motion to
11 remand on August 8, 2008 and notice any such motion to be heard on September 12, 2008. The
12 parties will follow a regularly scheduled 35 day motion calendar with respect to any opposition or
13 reply briefs filed in connection with any motion filed pursuant to this stipulation.

14
15 I declare under penalty of perjury under the laws of the United States of America that the
16 foregoing is true and correct. Executed this 2nd day of July, 2008, in San Francisco, California.

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18 /s/ Thomas R. Green
19 Thomas R. Green
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